

K.A.R. 28-19-202 ANNUAL EMISSIONS FEE

(a) The owner or operator of each stationary source of air emissions that has actual emissions of the type and quantity specified in subsection (b) of this regulation shall pay an annual emissions fee to the department. Actual emissions shall be calculated for a calendar year according to K.A.R. 28-19-210.

(b) The types of air emissions and the quantity of actual emissions for which annual emissions fees shall be assessed are as follows:

(1) Air emissions of 100 tons per year or more of any of the following:

(A) Sulfur oxides measured as sulfur dioxide;

(B) particulate matter calculated as PM_{10} , except if no emission factor or approvable method for calculating PM_{10} is available, annual emissions fees shall be assessed for total particulate emissions;

(C) nitrogen oxides expressed as nitrogen dioxide; and

(D) total volatile organic compounds;

(2) air emissions of hazardous air pollutants, from source categories other than source categories specifically excluded from the USEPA notice entitled "initial list of categories of sources under section 112(c)(1) of the clean air act amendments of 1990," 57 FR 31576, July 16, 1992, in either of the following quantities, whichever is greater:

(A) 10 tons per year or more of any single hazardous air pollutant; or

(B) 25 tons per year or more of any combination of hazardous air pollutants.

For purposes of this subsection, actual emissions shall include fugitive emissions from federally designated fugitive emission sources and fugitive hazardous air pollutant emissions.

(c) The annual emissions fee shall equal the sum of the actual emissions of the pollutant or pollutants specified in subsection (b) of this regulation, rounded to the nearest ton, multiplied by \$20.00 per ton of emissions, subject to the following:

K.A.R. 28-19-202

(1) The owner or operator shall not be required to include any pollutant emitted from the stationary source more than one time in the fee calculation;

(2) the owner or operator shall not be required to include the following in the emission fee calculation:

(A) Emissions of any pollutant of 500 pounds per year or less from any emissions source, unless the total emissions from similar sources at the stationary source equal or exceed 2,000 pounds per year;

(B) emissions in excess of 4,000 tons per year of any single pollutant from any stationary source;

(C) for a portable emissions unit or stationary source that operates both in Kansas and out-of-state, emissions from the unit or source while operating out-of-state; and

(D) emissions during the years 1995 through 1999, inclusive, from any unit that, on or before January 1, 1996, is designated at an affected unit under section 404, phase I sulfur dioxide requirements, of the federal clean air act;

(3) for emissions occurring during the years 1997 through 2000, inclusive, the annual emission fee shall be calculated by multiplying the actual emissions of the pollutant or pollutants specified in subsection (b) of this regulation, rounded to the nearest ton, times \$13.00 per ton of emissions.

(d) The owner or operator shall complete the calculations of actual emissions and calculation of the annual emissions fee on forms provided or approved by the department.

(1) A responsible official or the person most directly responsible for the compilation of the submitted information shall sign the completed forms.

(2) The owner or operator shall submit the annual emissions fee payment to the department by June 1 of the year following the calendar year for which the actual emissions were determined. Timeliness of submissions shall be determined by the postmark if submitted by mail.

(3) The owner or operation shall make annual emissions fee payments by check, draft, or money order payable to the Kansas department of health and environment.

(4) Payment of emissions fees to the department shall be the responsibility of the person or persons who are the owners or operators of the emissions unit or stationary source on the date the emissions fee is due. For purposes of calculating actual emissions for a period in which someone other than the current owner or operator was the owner or operator of the stationary source, the owner or operator responsible for paying the fee may assume that operations of the facility were identical to the operation of the facility by the current owner or operator if the current owner or operator has been unable, after reasonable and diligent inquiry, to obtain the actual operating information from the previous owner or operator.

(e) Any owner or operator who fails to timely pay the annual emissions fee shall comply with the following requirements:

(1) Pay an additional fee of \$100.00 or 1% of the annual emissions fee, whichever is greater; and

(2) beginning seven days after the department notifies the permittee in writing that the department has not received the annual emissions fee, pay an additional \$10 per day or .05% of the annual emissions fee per day, which is greater.

(f) The amount of any overpayment, as determined by the department, made by the owner or operator of a stationary source shall be credited to the annual emissions fee for subsequent years for that stationary source. (Authorized by K.S.A. 1999 Supp. 65-3005; implementing K.S.A. 1999 Supp. 65-3024; effective November 22, 1993; amended, Jan. 23, 1995; amended Feb. 13, 1998; amended March 23, 2001.)

EPA Rulemakings

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[illegible]

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None.